

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Shirley J. Anderson,
Appellant,

v.

City of Davenport Board of Review,
Appellee.

ORDER

Docket No. 13-103-0959
Parcel No. J0035-09

On March 25, 2014, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Shirley J. Anderson was represented by her son, Arthur Anderson, and requested the appeal be considered without a hearing. Assistant City Attorney Chris Jackson represented the Board of Review. The Appeal Board now, having examined the entire record and being fully advised, finds:

Findings of Fact

Shirley J. Anderson is the owner of property located at 3015 Indian Road, Davenport, Iowa. The real estate was classified residential as of January 1, 2013, and valued at \$44,100, representing \$12,130 in land value and \$31,970 in dwelling value. According to the property record card, the subject property is a one-story, frame dwelling built in 1950 with 648 total square feet of living area and two concrete stoops totaling 25 square feet. The property does not have a basement or garage. It has an average quality grade (4-10) and is listed in normal condition. The Assessor applied a 10% economic obsolescence adjustment to the improvements. Its site is 0.161-acres with a 10% topography adjustment.

Anderson protested to the Board of Review on the grounds that the property's assessment was not equitable compared to like properties in the taxing jurisdiction; that the property was assessed for

more than the value authorized by law; that there was an error in the assessment; and that there was fraud in the assessment under Iowa Code sections 441.37(1)(a)(1), (2), (4), and (5). Anderson contended the property's fair market value was \$32,000, representing \$4550 in land value and \$27,450 in building value. The Board of Review denied the protest.

Anderson then appealed to this Board and now asserts the property's correct value is \$23,156, representing \$4186 in land value and \$18,970 in building value. We note Anderson filed separate appeal petitions for the land and for the building improvements, which are consolidated in this appeal under Iowa Administrative r. 701-71.21(23).

Anderson listed five property addresses and the assessed value of each property in the equity section of her Board of Review petition. These properties are located at 3616 Pearl Avenue, 3117 Pearl Avenue, 3638 Johnson Avenue, 1324 S Michigan Avenue, and 3637 Johnson Avenue. The properties all have 648 square feet of living area, are of the same construction quality, and were built in 1950 like the subject. (Exhibit A & B). We note that Anderson's property is the only property without a garage; however, only one property, 1324 S Michigan, is as large as her site and she has the highest map factor of 85% for her superior location as compared to the 70% and 75% of the comparable properties. The comparison of the assessment of these properties below is based on the measurements in Exhibit B.

	Lot Size (SF)	Assessed Land Value (LV)	LV PSF	Improvement Value (IV)	IV PSF	Total Assessed Value (AV)	AV PSF
Subject	7000.0	\$12,130	\$1.73	\$31,970	\$49.34	\$44,100	\$68.06
3637 Johnson Ave	5402.6	\$11,700	\$2.17	\$33,410	\$51.56	\$45,110	\$69.61
1324 S Michigan Ave	7000.0	\$13,720	\$1.96	\$31,570	\$48.72	\$45,290	\$69.89
3117 Pearl Ave	4800.0	\$9,570	\$1.99	\$20,840	\$32.16	\$30,410	\$46.93
3638 Johnson Ave	5402.6	\$11,700	\$2.17	\$39,580	\$61.08	\$50,400	\$77.78
3616 Pearl Ave	4956.0	\$10,820	\$2.18	\$39,520	\$60.99	\$51,220	\$79.04

COMPARABLE S

AVERAGE	\$2.09	AVERAGE	\$50.90	AVERAGE	\$68.65
MEDIAN	\$2.17	MEDIAN	\$51.56	MEDIAN	\$69.89

The respective assessments of Anderson's land, improvements, and the property as a whole fall below both the average and median of Anderson's comparables on per-square-foot basis. This suggests that Anderson's property is equitably assessed.

Along with her appeal to this Board, Anderson lists 19 properties located along Blackhawk Creek in an attempt to show inequity. (Exhibit 13). The assessed land value per-square-foot of these properties ranges from \$0.92 to \$2.68. The subject property falls within this range and appears to be equitably assessed.

We note the total assessed value Anderson seeks for her property (\$23,156) would result in an assessed value per-square-foot of \$35.73. This is well below Anderson's own comparables, which suggests that granting Anderson's relief would not remedy, but would, in fact, cause inequity.

All dwellings had a uniform base cost of \$64,380 before adjustments, map factor, and depreciation. The property at the lowest end of the range, 3117 Pearl Avenue, is in below-normal condition, has 30% functional adjustment due to repairs needed, and also has more physical depreciation than the subject property, which reduces its value. Anderson compared the 2013 assessments of these five properties to their sale prices and calculated the difference between the two. None of the sales are recent, as they occurred between 1986 and 2003. It appears Anderson restricted her search to properties of the exact same age and square-footage as the subject. (Exhibit 2). Limiting the search criteria to properties of the exact age and size undoubtedly limited the number of recent sales available for comparison. Expanding the search criteria to include properties of similar size and age, even if not exact, may result in more recent sales for consideration in either a market value comparison, or an equity analysis.

An equity analysis typically compares prior year sale prices (2012 sales) or established market values to the current year's assessment (2013 assessment) to determine the assessment/sales ratio. Anderson also used her 1991 purchase price and increased it by 1% annually ($\$22,500 + 22\% =$

\$27,450) to arrive at what she believes is its “actual value fair assessment.” Because the comparisons developed by Anderson used extremely dated sales prices, did not properly calculate ratios, and did not use a recognized method of analyzing an equity claim, we give the information no consideration.

Anderson believes there are errors in the assessment regarding depreciation, unit pricing, and adjustments. She asks that the 26% physical depreciation of her dwelling be increased to 36%. She appears to base this claim on her comparison of her property’s physical depreciation to 3117 Pearl Ave and 1324 S. Michigan Ave, which each had 31% depreciation applied to their 2013 assessments. These properties are listed in below-normal condition, compared to the subject’s condition rating of “normal.” Therefore, the subject property follows a different depreciation schedule in the *Iowa Real Property Appraisal Manual* (7-80), which provides for 26% depreciation for the age and condition of the subject dwelling.

Anderson also requests a 25% economic obsolescence adjustment be applied to her land value because a nearby foundry was demolished. No market data was offered to show the demolition of this foundry has had any effect on the subject’s market value. Likewise, she believes the land topography adjustment should be increased from 10% to 35% without specifying the reason or any supporting evidence.

Anderson also seeks uniform unit pricing on a per-square-foot basis for all land and concrete in the area regardless of location. The replacement cost of her two concrete stoops, before depreciation and adjustments, is consistent with the *Manual* (7-64). Anderson references a \$3.25 per-square-foot unit price used by the Assessor to value other concrete areas. (Brief, p. 5). We note that \$3.25 per-square-foot is the unit price used to value concrete decks & patios, not concrete stoops. (*Manual*, 7-78).

Additionally, Anderson challenges the replacement cost of her dwelling using the *Menards Design-It Garage* program to estimate the replacement cost new of her dwelling. (Exhibit 5). The

program estimated the exterior construction costs at \$9,167.39. She developed an 11-day building plan, estimated \$9,167.39 for interior finishing costs, and added another \$9,167.39 for labor costs to arrive at a replacement cost of \$27,502.17. (Exhibit 6). This is compared to the Assessor's \$64,380 replacement cost new based on the *Manual* figures. First, Anderson's estimates for interior finishing and labor costs are unsubstantiated and we have no reason to believe they are accurate reflections of the costs for construction. Second, the Assessor was required to use the *Manual* to determine the replacement cost value of Anderson's home and the Menard's program for estimating garage costs cannot be substituted for the *Manual*. §§ 421.17(17), 441.17, 441.21(1)(h). We note, in a letter dated May 10, 2013, City Assessor Becky Eiting explained to Arthur Anderson the use of the *Manual* in the assessment process and provided the Iowa Department of Revenue website information to access the *Manual* directly. The record also includes a second letter from Eiting and correspondence from Julie G. Roisen, Property Tax Administrator at the Iowa Department of Revenue, providing an explanation of the assessment procedure. In summary, Anderson failed to substantiate her claims with appropriate evidence and some of her requests directly conflict with the *Manual* directives.

Anderson cites issues she alleges are fraud in the assessment. One stems from changes in lot size and topography land adjustments made by the City of Davenport Board of Review in 2004. Anderson's complaints of arbitrary and capricious acts by the Assessor include: records that are incomplete, not understandable, not updated, with inconsistent adjustment, without military and homestead exemptions listed, and mismatched old and new property record cards. She also objects to the Assessor's practice of rounding amounts to \$10 rather than \$1. This Board is authorized to hear Anderson's appeal of her 2013 assessment based on five available grounds. We find Anderson's criticisms are not relevant to any of the grounds raised in her appeal and do not amount to fraud. Although she alleges the Assessor failed to apply a uniform assessing method, which is a valid equity argument; however, she offered no evidence to support this allegation.

While Anderson failed to provide any current sales data to support her market value claim, the Board of Review provided five sales of properties it considered comparable to the subject property. (Exhibit C). The sale prices ranged from \$50,000 to \$70,000. The sale prices were adjusted to account for differences between the sale properties and the subject property, presumably using cost manual figures, and yielded indicated values of \$41,658 to \$55,234. (Exhibit D, 1-5). Anderson's assessment is within this range. However, we hesitate to rely on these sales because they all occurred in 2013 after the January 1, 2013, assessment date and may be more reflective of the 2014 assessment.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). The Iowa Code defines actual value as the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as

income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

At the outset, we note that Anderson believes that “market value” and “actual value” are “arbitrary and capricious terms set by an appraiser.” (Brief, p. 8). Because these terms are defined in the Iowa Code and have a common understanding in property valuation, we do not find them to be arbitrary and capricious. Anderson also appears to suggest the better measure of a property's value is its replacement cost because it “is an exact determination” and states that “market value is replacement cost less physical depreciation.” (Objection, p. 3). We recognize, however, that section 441.21 indicates a preference for the use of the sales comparison approach to determine fair market value and we find Anderson's definition of “market value” is inconsistent with Iowa law.

We now turn to Anderson's claims under Iowa Code section 441.37. To prove inequity, Anderson may show that the assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, Anderson may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires

assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Anderson did not prove by a preponderance of the evidence that her property is inequitably assessed under either the *Eagle Food* or *Maxwell* tests. An assessment/sales ratio of comparable properties was not developed and the evidence does not prove the Assessor failed to use uniform methods in the assessment. In fact, the properties submitted by Anderson suggest the property is equitably assessed. To grant the relief Anderson seeks would not remedy inequity; it would cause inequity. Further, the evidence showed the Assessor appropriately applied the *Manual* to Anderson's property and the comparable properties.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Anderson failed to provide any recent comparable sales, an appraisal, a comprehensive market analysis, or other evidence showing the fair market value of her property to support her over-assessment claim. The sales Anderson offered dated back to 1990, which are not relevant to the 2013 fair market value of her property. Although Anderson also attempted to show her property's value with the *Menards Design-It Garage* program and estimates of interior finishing and labor costs, we question the estimates and found this program could not be used as a substitute for the *Manual*. Anderson did not establish her property's assessment is excessive or the property's correct value using recognized valuation methods as of January 1, 2013.

Section 441.37(1)(a)(4) is not limited solely to clerical or mathematical errors. The plain language of section 441.37(1)(a)(4), on which Anderson rests her claim, allows a protest on the ground "[t]hat there is an error in the assessment." § 441.37(1)(a)(4). Anderson claims there are errors in

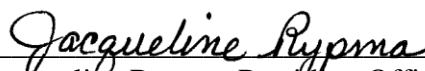
depreciation, adjustments, and unit pricing. There is no evidence to support her claims and some of them are directly contradictory to the *Manual*.

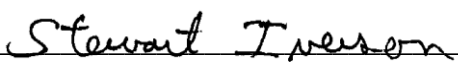
Anderson alleges there is fraud in the assessment. Fraud is a knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. *Black's Law Dictionary*, Third Edition 300 (1996). Anderson allegations are largely criticisms of the Assessor's Office documentation and practices. These do not amount to purposeful misrepresentation or intentional concealment of information from Anderson. To the contrary, the Assessor's Office and the Department of Revenue's correspondence to Anderson indicates sincere offers to explain the assessment procedure and provide helpful information to her.

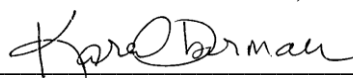
Based on the foregoing, we find a preponderance of the evidence does not prove Anderson's property is inequitably assessed, over-assessed, or that there is error or fraud in the assessment.

THE APPEAL BOARD ORDERS that the January 1, 2013, assessment as determined by the City of Davenport Board of Review is affirmed.

Dated this 15th day of April, 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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